

110<sup>th</sup> Congress

1<sup>st</sup> Session

H. RES. \_\_\_\_

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Providing for consideration of the bill (H.R. 3162) to amend titles XVIII, XIX, and XXI of the Social Security Act to extend and improve the children's health insurance program, to improve beneficiary protections under the Medicare, Medicaid, and the CHIP program, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

August 1, 2007 (legislative day of July 31, 2007)

Ms. Castor, from the Committee on Rules, reported the following resolution which was referred to the House Calendar and ordered to be printed.

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RESOLUTION

Providing for consideration of the bill (H.R. 3162) to amend titles XVIII, XIX, and XXI of the Social Security Act to extend and improve the children's health insurance program, to improve beneficiary protections under the Medicare, Medicaid, and the CHIP program, and for other purposes.

*Resolved*, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 3162) to amend titles XVIII, XIX, and XXI of the Social Security Act to extend and improve the children's health insurance program, to improve beneficiary protections under the Medicare, Medicaid, and the CHIP program, and for other purposes. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. The amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill, modified by the amendment printed in the report of the Committee on Rules accompanying this resolution, shall be considered as adopted. The bill, as amended, shall be considered as read. All points of order against provisions of the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) two hours of debate, with one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means and one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce; and (2) one motion to recommit with or without instructions.

Sec. 2. During consideration of H.R. 3162 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to such time as may be designated by the Speaker.

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Providing for consideration of the bill (H.R. 3162) to amend titles XVIII, XIX, and XXI of the Social Security Act to extend and improve the children's health insurance program, to improve beneficiary protections under the Medicare, Medicaid, and the CHIP program, and for other purposes.

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August 1, 2007 (legislative day of July 31, 2007). —Referred to the House Calendar and ordered to be printed  
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Ms. Castor, from the Committee on Rules

submitted the following

#### REPORT

[To accompany H. Res. \_\_\_\_]

The Committee on Rules, having had under consideration House Resolution \_\_\_\_, by a record vote of 8 to 4, report the same to the House with the recommendation that the resolution be adopted.

#### SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration H.R. 3162, the Children's Health and Medicare Protection Act of 2007, under a closed rule providing two hours of general debate in the House, with one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways & Means and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce.

The rule waives all points of order against consideration of the bill except for clauses 9 and 10 of Rule XXI. The amendment in the nature of a substitute recommended by the Committee on Ways & Means now printed in the bill, modified by the amendment printed in this report, shall be considered as adopted. The rule waives all points of order against provisions in the bill as amended and provides that the bill, as amended, shall be considered as read. The rule provides one motion to recommit with or without instructions. Finally, the rule provides that the Chair may postpone further consideration of the bill to a time designated by the Speaker.

#### EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the bill (except for clauses 9 and 10 of Rule XXI) includes the following: a waiver of Rule XIII, clause 4(a), requiring a three-day layover of the committee report and a waiver of Rule XIII, clause 3(e), requiring

the inclusion of a comparative print of any part of the bill or joint resolution proposing to amend the statute and of the statute or part thereof proposed to be amended. Although the rule waives all points of order against provisions in the bill, as amended, the committee is not aware of any points of order against the bill, as amended. The waiver is prophylactic in nature.

## COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

### Rules Committee Record Vote No. 273

**Date:** August 1, 2007 (legislative day of July 31, 2007)

**Measure:** H.R. 3162

**Motion By:** Mr. Dreier

**Summary of Motion:** To grant an open rule.

**Results:** Defeated 4-8

#### Vote by Member:

MCGOVERN	NAY
HASTINGS (FL)	NAY
MATSUI	
CARDOZA	NAY
WELCH	NAY
CASTOR	NAY
ARCURI	NAY
SUTTON	NAY
DREIER	YEA
DIAZ-BALART	YEA
HASTINGS (WA)	YEA
SESSIONS	YEA
SLAUGHTER	NAY

## **Rules Committee Record Vote No. 274**

**Date:** August 1, 2007 (legislative day of July 31, 2007)

**Measure:** H.R. 3162

**Motion By:** Mr. Dreier

**Summary of Motion:** To grant a modified open rule.

**Results:** Defeated 4-8

### **Vote by Member:**

MCGOVERN	NAY
HASTINGS (FL)	NAY
MATSUI	
CARDOZA	NAY
WELCH	NAY
CASTOR	NAY
ARCURI	NAY
SUTTON	NAY
DREIER	YEA
DIAZ-BALART	YEA
HASTINGS (WA)	YEA
SESSIONS	YEA
SLAUGHTER	NAY

## **Rules Committee Record Vote No. 275**

**Date:** August 1, 2007 (legislative day of July 31, 2007)

**Measure:** H.R. 3162

**Motion By:** Mr. Diaz-Balart

**Summary of Motion:** To make in order en bloc and provide appropriate waivers for all 43 amendments submitted to Rules on H.R. 3162.

**Results:** Defeated 4-8

### **Vote by Member:**

MCGOVERN	NAY
HASTINGS (FL)	NAY
MATSUI	
CARDOZA	NAY
WELCH	NAY
CASTOR	NAY
ARCURI	NAY
SUTTON	NAY
DREIER	YEA
DIAZ-BALART	YEA
HASTINGS (WA)	YEA
SESSIONS	YEA
SLAUGHTER	NAY

## Rules Committee Record Vote No. 276

**Date:** August 1, 2007 (legislative day of July 31, 2007)

**Measure:** H.R. 3162

**Motion By:** Mr. Sessions

**Summary of Motion:** To make in order en bloc and provide appropriate waivers for amendments #8, 9, 10, and 11 by Rep. Burgess to prohibit the Secretary of Health and Human Services from approving future state waivers that would cover adults other than pregnant adults under the State Children's Health Insurance Program; to modify Title III of HR 3162 that addresses Medicare physician reimbursement; to modify section 704 of HR 3162 that would require the Secretary of HHS to develop a plan to implement for never events; and to require a State submitting a SCHIP waiver request to the Secretary of Health and Human Services to certify that children in that state have access to an adequate level of pediatricians, pediatric specialists and pediatric sub-specialists for targeted low-income children covered under the State's child health plan.

**Results:** Defeated 4-8

### Vote by Member:

MCGOVERN	NAY
HASTINGS (FL)	NAY
MATSUI	
CARDOZA	NAY
WELCH	NAY
CASTOR	NAY
ARCURI	NAY
SUTTON	NAY
DREIER	YEA
DIAZ-BALART	YEA
HASTINGS (WA)	YEA
SESSIONS	YEA
SLAUGHTER	NAY

## Rules Committee Record Vote No. 277

**Date:** August 1, 2007 (legislative day of July 31, 2007)

**Measure:** H.R. 3162

**Motion By:** Mr. Sessions

**Summary of Motion:** To make in order en bloc and provide appropriate waivers for amendments #25, 26, 27, and 28 by Rep. Blackburn, to strike Section 902 from the bill, which repeals the trigger provision; to prevent employers within a State from dropping the option to have employer-sponsored health insurance coverage for their employees' children; to prohibit SCHIP eligibility for adults for consecutive years; and to prohibit adults convicted of a "drug-related" crime from SCHIP eligibility.

**Results:** Defeated 4-8

### Vote by Member:

MCGOVERN	NAY
HASTINGS (FL)	NAY
MATSUI	
CARDOZA	NAY
WELCH	NAY
CASTOR	NAY
ARCURI	NAY
SUTTON	NAY
DREIER	YEA
DIAZ-BALART	YEA
HASTINGS (WA)	YEA
SESSIONS	YEA
SLAUGHTER	NAY



### **Rules Committee Record Vote No. 278**

**Date:** August 1, 2007 (legislative day of July 31, 2007)

**Measure:** H.R. 3162

**Motion By:** Mr. Sessions

**Summary of Motion:** To strike Section 651 regarding specialty hospitals.

**Results:** Defeated 4-8

#### **Vote by Member:**

MCGOVERN	NAY
HASTINGS (FL)	NAY
MATSUI	
CARDOZA	NAY
WELCH	NAY
CASTOR	NAY
ARCURI	NAY
SUTTON	NAY
DREIER	YEA
DIAZ-BALART	YEA
HASTINGS (WA)	YEA
SESSIONS	YEA
SLAUGHTER	NAY

## Rules Committee Record Vote No. 279

**Date:** August 1, 2007 (legislative day of July 31, 2007)

**Measure:** H.R. 3162

**Motion By:** Mr. Hastings (WA)

**Summary of Motion:** To make in order and provide appropriate waivers for an amendment offered by Rep. Hastings (WA) #29 to strike clause (i) of subparagraph (D) in subsection (i)(1) added by section 651 (a)(3).

**Results:** Defeated 4-8

### Vote by Member:

MCGOVERN	NAY
HASTINGS (FL)	NAY
MATSUI	
CARDOZA	NAY
WELCH	NAY
CASTOR	NAY
ARCURI	NAY
SUTTON	NAY
DREIER	YEA
DIAZ-BALART	YEA
HASTINGS (WA)	YEA
SESSIONS	YEA
SLAUGHTER	NAY

## Rules Committee Record Vote No. 280

**Date:** August 1, 2007 (legislative day of July 31, 2007)

**Measure:** H.R. 3162

**Motion By:** Mr. Hastings (WA)

**Summary of Motion:** To extend general debate to four hours.

**Results:** Defeated 4-8

### Vote by Member:

MCGOVERN	NAY
HASTINGS (FL)	NAY
MATSUI	
CARDOZA	NAY
WELCH	NAY
CASTOR	NAY
ARCURI	NAY
SUTTON	NAY
DREIER	YEA
DIAZ-BALART	YEA
HASTINGS (WA)	YEA
SESSIONS	YEA
SLAUGHTER	NAY

## **Rules Committee Record Vote No. 281**

**Date:** August 1, 2007 (legislative day of July 31, 2007)

**Measure:** H.R. 3162

**Motion By:** Mr. McGovern

**Summary of Motion:** To report the rule.

**Results:** Adopted 8-4

### **Vote by Member:**

MCGOVERN	YEA
HASTINGS (FL)	YEA
MATSUI	
CARDOZA	YEA
WELCH	YEA
CASTOR	YEA
ARCURI	YEA
SUTTON	YEA
DREIER	NAY
DIAZ-BALART	NAY
HASTINGS (WA)	NAY
SESSIONS	NAY
SLAUGHTER	YEA

## **SUMMARY OF AMENDMENT CONSIDERED AS ADOPTED**

The following changes are reflected in the amendment.

### **Amendments to Title I – Children’s Health Insurance Program**

8. Amends Sec 104 to increase the percentage of CHIP allotment “qualifying States” may spend from 30 percent to 100 percent.
9. Adds section 115 to require States with Separate State CHIP programs to provide 12 months of continuous eligibility for targeted low income children in families with incomes under 200% of the federal poverty level under XXI.
10. Amends section 111(a)(3)(A) to sunset the outreach performance bonus at the end of FY 2013 and require a GAO study of the effectiveness of the outreach bonus at enrolling eligible but uninsured children.
11. Amends section 131 to allow for coverage of children under CHIP to age 21.
12. Adds a new section 135 to make clear that nothing in the act allows Federal payment for individuals who are not legal residents.
13. Adds a new section 136 to require audits to enforce citizenship restrictions on eligibility for Medicaid and CHIP benefits. This replaces the previous audit requirement in section 143.
14. Amends 151 (a)(2)(B) to require the new pediatric health quality measurement program to collect data on efforts to reduce hospitalization rate of premature infants.

### **Amendments to Title II – Medicare Beneficiary Improvements**

8. Amends section 211(a)(2)(D) by changing the indexing of the asset test from \$1000 and \$2000 per year to the consumer price index.
9. Amends section 213(a) to clarify applicants’ ability to self-certify income and resources for purposes of qualifying for the Part D low-income subsidy. Also clarifies that SSA can verify eligibility with existing data, but without the need for additional documentation from applicants, except in extraordinary circumstances. Also makes required technical changes to account for this clarification.
10. Amends section 213(d) to clarify that SSA will provide beneficiaries with a simplified application form and will accept and deliver these applications to the states.
11. Amends section 217 to increase the cost-sharing limitation from 2.5 percent of annual income to 5 percent of annual income.
12. Amends effective date of section 223.
13. Changes paragraph (c)(3) of section 231 to clarify the definition of future patient record systems; adds a new subparagraph (f)(2)(E) to facilitate the collection of racial and ethnicity data.
14. Amends section 233 to clarify the scope of the demonstration.

### **Amendments to Title III – Physicians’ Service Payment Reform**

Amends section 301 by clarifying the formula for excluding services not covered under the physician fee schedule from the target growth rates, changing the allowable growth rate for the primary care and preventive services category from three percent to two-and-a-half percent, and by freezing the update in years after 2012. Amends section 304 to clarify the definition of efficient areas; conforms language in section 309 to reflect changes made in the bill as reported by the Committee on Ways and Means; adds language in section 905 directing CMS to report on the specific needs of communities serving vulnerable populations;

#### **Amendments to Title IV – Medicare Advantage Reform**

4. Amends section 431 by adding authority for Severe and Disabling Chronic Condition Special Needs Plans (SDCC-SNPs). Provides that SDCC-SNPs must enroll 90% beneficiaries with specific chronic conditions as indicated by MA risk adjustment data; serve beneficiaries with one or more of six specific severe chronic conditions; have an average risk score of 1.35 or greater; manage a MA chronic care improvement program that excels such programs in regular MA plans; and maintain a network of providers to meet the needs of enrollees with severe and disabling conditions.
5. Amends section 431 to clarify a provision referring to Medicare-Medicaid demonstration programs in Massachusetts, Minnesota and Wisconsin.
6. Amends section 411(h) to clarify a provision that provides financial support for State Health Insurance Assistance Programs.

#### **Amendments to Title V – Provisions Relating to Medicare Part A**

5. Amends section 503(c) to clarify the treatment of satellites facilities for long-stay cancer hospitals. Modifies the title for the section setting forth Medicare payments for long-stay cancer hospitals.
6. Amends section 504 to modify the formula for disproportionate share hospital payments for hospitals located in Puerto Rico.
7. Amends section 505(b) to streamline language pertaining to one PPS-exempt cancer hospital.
8. Amends section 508(c) to streamline language pertaining to geographic reclassifications and to allow for geographic reclassification of certain hospitals.

#### **Amendments to Title VI – Other Provisions Relating to Medicare Part B**

4. Amends sections 608(b) and 609(c) to extend the date by which contracts entered into under the competitive acquisition program are exempt from these sections. The date for the exemption is extended to October 1, 2007.
5. Amends section 612(c) to clarify that certain inhalation drugs are appropriately reimbursed. Specifically the amendment clarifies that generic albuterol be reimbursed at the lower of its current or historic level, and that brand name levalbuterol be reimbursed at the lower of its current or historic level.
6. Amends section 612(b) to clarify that Competitive Acquisition Program vendors may deliver drugs to a main office or satellite office as designated by the prescribing physician, and that physicians may be allowed to transport drugs to the site of administration if all applicable laws and regulations are followed.

#### **Amendments to Title VII – Provisions Relating to Medicare Parts A and B**

4. Amends section 705 to modify criteria for reallocation of graduate medical education residency slots from hospital closures and provision of additional residency slots.
5. Adds section 706 providing for a study of the effect of home health remote monitoring on patient outcomes.
6. Adds section 707 providing for a demonstration project testing effectiveness of home health telemonitoring and other telehealth technologies.

#### **Amendments to Title VIII – Medicaid**

5. Amends section 801(a)(1) to extend the TMA program until 2011, rather than 2009.

6. Amends section 812(a) to change the applicable percentage to 22.1.
7. Strikes section 812(b).
8. Adds a new section 812 to extend the automated web-based asset verification demonstration to Medicaid, in the States in which the demonstration is operating.

#### **Amendments to Title IX – Miscellaneous**

5. Amends section 904(a) to clarify the number of members and their terms of appointment on the Comparative Effectiveness Research Commission, and to clarify the terms of appointment of the members of the Coordinating Council for Health Services Research.
6. Amends section 904(b) to clarify that the term ‘specified health insurance policy’ does not include any insurance if substantially all of its coverage is of excepted benefits described in section 9832(c).
7. Adds a new section 909 to the act allowing Congressional Support Agencies (MedPAC, GAO, and CBO) to obtain from CMS necessary data about the Medicare Part D program.
8. Adds a new section 910 to reauthorize the Title V Social Security Act abstinence education programs with provisions to ensure that medically or scientifically accurate information is provided; that States have the flexibility to teach abstinence-only education programs OR abstinence-plus education programs; and that funded programs are proven effective at decreasing teen pregnancy rates and rates of STDs and HIV/AIDS.

## **TEXT OF AMENDMENTS CONSIDERED AS ADOPTED**



**AMENDMENT TO H.R. 3162, AS REPORTED BY THE  
COMMITTEE ON WAYS AND MEANS  
OFFERED BY M. \_\_\_\_\_  
[en bloc amendments]**

In the matter inserted by section 104, strike “30 percent” and insert “100 percent”.

Add at the end of subtitle B of title I the following:

**1 SEC. 115. CONTINUOUS COVERAGE UNDER CHIP.**

2 (a) IN GENERAL.—Section 2102(b) of the Social Se-  
3 curity Act (42 U.S.C. 1397bb(b)) is amended by adding  
4 at the end the following new paragraph:

5 “(5) 12-MONTHS CONTINUOUS ELIGIBILITY.—

6 In the case of a State child health plan that provides  
7 child health assistance under this title through a  
8 means other than described in section 2101(a)(2),  
9 the plan shall provide for implementation under this  
10 title of the 12-months continuous eligibility option  
11 described in section 1902(e)(12) for targeted low-in-  
12 come children whose family income is below 200 per-  
13 cent of the poverty line.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall apply to determinations (and redeter-  
3 minations) of eligibility made on or after January 1, 2008.

In the paragraph (3)(A) added by section 111, in-  
sert “and ending with fiscal year 2013” after “beginning  
with fiscal year 2008”.

In section 111, insert “(a) IN GENERAL.—” before  
“Section 2105(a)”, and add at the end the following:

4 (b) GAO STUDY.—

5 (1) IN GENERAL.—The Comptroller General of  
6 the United States shall conduct a study on the effec-  
7 tiveness of the performance bonus payment program  
8 under the amendment made by subsection (a) on the  
9 enrollment and retention of eligible children under  
10 the Medicaid and CHIP programs and in reducing  
11 the rate of uninsurance among such children.

12 (2) REPORT.—Not later than January 1, 2013,  
13 the Comptroller General shall submit a report to  
14 Congress on such study and shall include in such re-  
15 port such recommendations for extending or modi-  
16 fying such program as the Comptroller General de-  
17 termines appropriate.

Amend section 131 to read as follows:

1 **SEC. 131. OPTIONAL COVERAGE OF CHILDREN UP TO AGE**  
2 **21 UNDER CHIP.**

3 (a) IN GENERAL.—Section 2110(c)(1) of the Social  
4 Security Act (42 U.S.C. 1397jj(c)(1)) is amended by in-  
5 serting “(or, at the option of the State, under 20 or 21  
6 years of age)” after “19 years of age”.

7 (b) EFFECTIVE DATE.—The amendment made by  
8 subsection (a) shall take effect on January 1, 2008.

Add at the end of subtitle D of title I the following  
(and in section 143(a), strike paragraph (2) and redesign-  
nate paragraph (3) as paragraph (2)):

9 **SEC. 135. NO FEDERAL FUNDING FOR ILLEGAL ALIENS.**

10 Nothing in this Act allows Federal payment for indi-  
11 viduals who are not legal residents.

12 **SEC. 136. AUDITING REQUIREMENT TO ENFORCE CITIZEN-**  
13 **SHIP RESTRICTIONS ON ELIGIBILITY FOR**  
14 **MEDICAID AND CHIP BENEFITS.**

15 Section 1903(x) of the Social Security Act (as amend-  
16 ed by section 405(c)(1)(A) of division B of the Tax Relief  
17 and Health Care Act of 2006 (Public Law 109–432)) is  
18 amended by adding at the end the following new para-  
19 graph:

20 “(4)(A) Each State shall audit a statistically-based  
21 sample of cases of individuals whose eligibility for medical  
22 assistance (or child health assistance) is determined under

1 section 1902(a)(46)(B) or under subsection (v)(4)(A) in  
2 order to demonstrate to the satisfaction of the Secretary  
3 that Federal funds under this title or title XXI are not  
4 unlawfully spent for benefits for individuals who are not  
5 legal residents. In conducting such audits, a State may  
6 rely on case reviews regularly conducted pursuant to its  
7 Medicaid Quality Control or Payment Error Rate Meas-  
8 urement (PERM) eligibility reviews under subsection (u)  
9 and the provisions of subsection (e) of section 1137 shall  
10 apply under this paragraph in the same manner as they  
11 apply under subsection (b) of such section.

12 “(B) The State shall remit to the Secretary the Fed-  
13 eral share of any unlawful expenditures for benefits, for  
14 aliens who are not legal residents, which are identified  
15 under an audit conducted under subparagraph (A).”.

In section 151(a)(2)(B), insert after clause (vi) the  
following new clause:

16 (vii) Data on State efforts to reduce  
17 hospitalization rate of premature infants  
18 under the age of 12 months who were born  
19 prior to 35 weeks.

In the subclause (IV) inserted by section  
211(a)(2)(D), strike “increased by \$1,000 (or \$2,000 in  
the case of the combined value referred to in subclause

(III))” and insert “increased by the annual percentage increase in the consumer price index (all items; U.S. city average) as of September of such previous year”.

In section 211(a)(2), strike “and” at the end of subparagraph (C), strike the last period at the end of the matter inserted by subparagraph (D) and insert “; and”, and add at the end the following:

1                   (E) in the last sentence, by inserting “or  
2                   (IV)” after “subclause (II)”.

Amend subsection (a) of section 213 to read as follows:

3           (a) ADMINISTRATIVE VERIFICATION OF INCOME AND  
4 RESOURCES UNDER THE LOW-INCOME SUBSIDY PRO-  
5 GRAM.—Clause (iii) of section 1860D–14(a)(3)(E) of the  
6 Social Security Act (42 U.S.C. 1395w–114(a)(3)(E)) is  
7 amended to read as follows:

8                   “(iii) CERTIFICATION OF INCOME AND  
9                   RESOURCES.—For purposes of applying  
10                   this section—

11                   “(I) an individual shall be per-  
12                   mitted to apply on the basis of self-  
13                   certification of income and resources;  
14                   and

1                   “(II) matters attested to in the  
2                   application shall be subject to appro-  
3                   priate methods of verification without  
4                   the need of the individual to provide  
5                   additional documentation, except in  
6                   extraordinary situations as determined  
7                   by the Commissioner.”.

      In section 213(b), strike “, as amended by sub-  
section (a), is further amended” and insert “is amended”  
and redesignate the subparagraph added by such section  
as subparagraph (G).

      In the paragraph (7) added by section 213(c), strike  
“clauses (iii) and (iv) of section 1860D-14(a)(3)(C)” and  
inserting “subparagraphs (C)(iii) and (G) of section  
1860D-14(a)(3)”.

      In the subsection (c)(1)(B) added by section 213(d),  
strike “an application form” and insert “a simplified ap-  
plication form”.

      In the subsection (c)(3) added by section 213(d),  
strike “COMPLETED” in the heading and “completed” in  
the text.

      In the clause added by section 217(a)(1) and in the  
subparagraph added by section 217(a)(2), strike “2.5  
percent” and insert “5 percent”.

In section 223(b), strike “January 1, 2009” and insert “January 1, 2013”.

In section 231(c)(3), insert after “systems” the following: “, including electronic health records, electronic medical records and patient health records,”.

In section 231(f)(2), strike “and” at the end of subparagraph (C), strike the period at the end of subparagraph (D) and insert “; and”, and add at the end the following new subparagraph:

1                   (E) provide for the revision of existing  
2                   HIPAA claims-related code sets to mandate the  
3                   collection of racial and ethnicity data, and to  
4                   provide a code set for primary language.

In section 233(a), strike “limited English proficient” and insert “living in communities where racial and ethnic minorities, including populations that face language barriers, are underserved with respect to such services”.

In the matter inserted by section 301(c)(1), strike “and (8)” and insert “(8), and (9)”.

In the paragraph (8) added by section 301(c)(4), in the heading insert “AND ENDING WITH 2012” after “BEGINNING WITH 2008” and in the matter in subparagraph

(A) before clause (i), insert “and ending with 2012” after  
“beginning with 2008”.

In the paragraph (8)(B) added by section 301(c)(4),  
amend clause (i) to read as follows:

1                   “(i) FOR 2008.—For 2008:  
2                   “(I) TOTAL 2007 ALLOWED EX-  
3                   PENDITURES FOR ALL SERVICES IN-  
4                   CLUDED IN SGR COMPUTATION.—  
5                   Compute total allowed expenditures  
6                   for physicians’ services (as defined in  
7                   subsection (f)(4)(A)) for 2007 that  
8                   would otherwise be calculated under  
9                   subsection (d) but for this paragraph.  
10                  “(II) TOTAL 2007 ALLOWED EX-  
11                  PENDITURES FOR PHYSICIAN FEE  
12                  SCHEDULE SERVICES.—Compute total  
13                  allowed expenditures for services fur-  
14                  nished under the physician fee sched-  
15                  ule for 2007 by subtracting, from the  
16                  total allowed expenditures computed  
17                  under subclause (I), the Secretary’s  
18                  estimate of the amount of the actual  
19                  expenditures for 2007 for services in-  
20                  cluded in such subclause for which  
21                  payment is not made under the fee



1 schedule established pursuant to this  
2 section.

3 “(III) ALLOCATION OF 2007 AL-  
4 LOWED EXPENDITURES TO SERVICE  
5 CATEGORY.—Compute allowed ex-  
6 penditures for the service category in-  
7 volved for 2007 by multiplying the  
8 total allowed expenditures computed  
9 under subclause (II) by the overhang  
10 allocation factor for the service cat-  
11 egory (as defined in subparagraph  
12 (C)(iii)).

13 “(IV) INCREASE BY GROWTH  
14 RATE TO OBTAIN 2008 ALLOWED EX-  
15 PENDITURES FOR SERVICE CAT-  
16 EGORY.—Compute allowed expendi-  
17 tures for the service category for 2008  
18 by increasing the allowed expenditures  
19 for the service category for 2007 com-  
20 puted under subclause (III) by the  
21 target growth rate for such service  
22 category under subsection (f) for  
23 2008.

In the paragraph (8)(D) added by section 301(c)(4), strike “FLOOR FOR UPDATES” and insert “UPDATES” and strike “not less than” and insert “equal to”.

In the matter added by section 301(c)(4), add at the end the following:

1           “(9) NO UPDATE FOR SERVICE CATEGORIES  
2    BEGINNING WITH 2013.—The update to the conver-  
3    sion factor for each of the service categories estab-  
4    lished under paragraph (8) for 2013 and each suc-  
5    ceeding year shall be 0 percent.”.

In the paragraph (5)(B) added by section 301(d)(1), strike “0.03” and insert “0.025”.

In the subsection (v)(2)(A) added by section 304, insert before the period at the end the following: “as standardized to eliminate the effect of geographic adjustments in payment rates”.

In the subsection (m)(4) inserted by section 309(a)(2), in subparagraph (F) strike “(n)(3)(G)” and insert “(n)” and strike subparagraph (B) and redesignate succeeding subparagraphs accordingly.

In section 411(h)(2), add “and” at the end of subparagraph (A), strike “; and” at the end of subparagraph (B) and insert a period, and strike subparagraph (C).

Amend the clause (ii) inserted by section  
431(b)(1)(A) to read as follows:

1                   “(ii) as of January 1, 2009—  
2                   “(I) at least 90 percent of the  
3                   enrollees in which are described in  
4                   subparagraph (B)(i), as determined  
5                   under regulations in effect as of July  
6                   1, 2007;  
7                   “(II) at least 90 percent of the  
8                   enrollees in which are described in  
9                   subparagraph (B)(ii) and are full-ben-  
10                  efit dual eligible individuals (as de-  
11                  fined in section 1935(c)(6)) or quali-  
12                  fied medicare beneficiaries (as defined  
13                  in section 1905(p)(1)); or  
14                  “(III) at least 90 percent of the  
15                  enrollees in which have a severe or  
16                  disabling chronic condition of the type  
17                  that the plan is committed to serve as  
18                  indicated by the data submitted for  
19                  the risk-adjustment of plan payments;  
20                  and”.

In section 431(b)(1), add “and” at the end of sub-  
paragraph (A), strike subparagraph (B), and redesignate  
subparagraph (C) as subparagraph (B).

At the end of the paragraphs added by section 431(b)(1)(B)(iii), as so redesignated, add the following additional paragraph:

1           “(4) ADDITIONAL REQUIREMENTS FOR SEVERE  
2           OR DISABLING CHRONIC CONDITION SNPS.—In the  
3           case of a specialized MA plan for special needs indi-  
4           viduals described in subsection (b)(6)(A)(ii)(III), the  
5           applicable requirements of this subsection are as fol-  
6           lows:

7                   “(A) The plan is designated to serve, and  
8                   serves, Medicare beneficiaries with one or more  
9                   of the following specific severe or disabling  
10                  chronic conditions:

11                           “(i) Cardiovascular.

12                           “(ii) Cerebrovascular.

13                           “(iii) Congestive health failure.

14                           “(iv) Diabetes.

15                           “(v) Chronic obstructive pulmonary  
16                   disease.

17                           “(vi) HIV/AIDS.

18                   “(B) The plan has an average risk score  
19                   under section 1853(a)(1)(C) of 1.35 or greater.

20                   “(C) The plan has established and actively  
21                   manages a chronic care improvement program  
22                   under section 1852(e)(2) for each of the condi-

1           tions that it serves under subparagraph (A)  
2           that significantly exceeds the features and re-  
3           sults of such programs established and man-  
4           aged by Medicare Part C plans that are not  
5           specialized Medicare Part C plans for special  
6           needs individuals of the type described in this  
7           paragraph.

8           “(D) The plan has a network of a suffi-  
9           cient number of primary care and specialty phy-  
10          sicians, hospitals, and other health care pro-  
11          viders under contract to the plan so that the  
12          plan can clearly meet the routine and specialty  
13          needs of the severely ill and disabled enrollees  
14          of the plan throughout the service area of the  
15          plan.

16          “(E) The plan reports to the Secretary in-  
17          formation on additional quality measures speci-  
18          fied by the Secretary under section  
19          1852(e)(3)(D)(iv)(III) for such plans.”.

        In the matter inserted by section 431(b)(2)(A),  
        strike “or (3)” and insert “, (3), or (4)”.

        In the clause (iii) added by section 431(b)(2)(B),  
        strike “and” at the end of subclause (I), strike the period  
        at the end of subclause (II) and insert “; and”, and add  
        at the end the following new subclause:

1                   “(III) beneficiaries enrolled in  
2                   specialized Medicare Part C plans for  
3                   special needs individuals (described in  
4                   section 1859(b)(6)(A)(ii)(III)) that  
5                   serve predominantly individuals with  
6                   severe or disabling chronic conditions  
7                   by measuring the special needs for  
8                   care of such individuals.”.

Amend subparagraph (A) of section 431(b)(3) to  
read as follows:

9                   (A) to a Medicare Advantage plan with a  
10                  contract with a State Medicaid integrated Medi-  
11                  care-Medicaid plan program that had been ap-  
12                  proved by the Centers for Medicare & Medicaid  
13                  Services as of January 1, 2004; and

Add at the end of section 431 the following:

14               (c) SUNSET OF ADDITIONAL DESIGNATION AUTHOR-  
15               ITY.—

16               (1) IN GENERAL.—Subsection (d) of section  
17               231 of the Medicare Prescription Drug, Improve-  
18               ment, and Modernization Act of 2003 (Public Law  
19               108-173) is repealed.

20               (2) EFFECTIVE DATE.—The repeal made by  
21               paragraph (1) shall take effect on January 1, 2009,

1 and shall apply to plans offered on or after such  
2 date.

In section 503(c)(4), strike “TRANSITION RULE”  
and insert “IN GENERAL”.

In section 503(c)(5), insert “without regard to sec-  
tion 412.22(h)(2)(i) of title 42, Code of Federal Regula-  
tions,” after “of this Act” and strike “of title 42, Code  
of Federal Regulations” and insert “of such title”.

In section 504, insert “(a) IN GENERAL.—” before  
“Section 1886(d)(5)(F)(xiv)” and add at the end the fol-  
lowing:

3 (b) SPECIAL RULE IN COMPUTING DISPROPOR-  
4 TIONATE PATIENT PERCENTAGE.—

5 (1) IN GENERAL.—Section 1886(d)(5)(F)(vi) of  
6 such Act (42 U.S.C. 1395ww(d)(5)(F)(vi)) is  
7 amended by adding at the end the following: “In ap-  
8 plying this clause in the case of hospitals located in  
9 Puerto Rico, the Secretary shall substitute for the  
10 fraction described in subclause (I) one-half of the  
11 national average of such fraction for all subsection  
12 (d) hospitals, as estimated by the Secretary.”.

13 (2) EFFECTIVE DATE.—The amendment made  
14 by paragraph (1) shall apply to discharges in cost

1 reporting periods of hospitals beginning on or after  
2 January 1, 2008.

In the clause (vii) inserted by section 505(b)(1)(B), strike subclauses (I), (V), and (VIII) and redesignate subclauses (II), (III), (IV), (VI), and (VII) as subclauses (I) through (V), respectively, and in subclause (IV), as so redesignated, add “and” at the end and in subclause (V), as so redesignated, strike “and” at the end.

In section 508, strike subsections (c) and (d).

Redesignate subsection (e) of section 508 as subsection (c) and, in such subsection, in paragraph (3)(A), insert “greater” after “and no”, in paragraph (4), strike “Notwithstanding paragraph (6), in” and insert “In” and strike “of this section” and insert “of this paragraph”, and redesignate paragraph (8) as paragraph (13) and insert after paragraph (7) the following:

3 (8) For purposes of making payment under sec-  
4 tion 1886(d) of the Social Security Act (42 U.S.C.  
5 1395ww(d)), the Nashville-Davidson-Murfreesboro  
6 core based statistical area is deemed to include  
7 Cumberland County, Tennessee.

8 (9) For purposes of making payment under sec-  
9 tion 1886(d) of the Social Security Act (42 U.S.C.  
10 1395ww(d)), any hospital that is co-located in



1 Marinette, Wisconsin and the Menominee, Michigan  
2 is deemed to be located in Chicago, Illinois.

3 (10) In the case of a hospital located in Massa-  
4 chusetts or Clinton County, New York, that is re-  
5 classified based on wages under paragraph (8) or  
6 (10) of section 1886(d) of the Social Security Act  
7 into an area the area wage index for which is in-  
8 creased under section 4410(a) of the Balanced  
9 Budget Act of 1997 (Public Law 105-33), such in-  
10 creased area wage index shall also apply to such hos-  
11 pital under such section 1886(d).

12 (11) For purposes of applying the area wage  
13 index under section 1886(d) of the Social Security  
14 Act (42 U.S.C. 1395ww(d)), hospital provider num-  
15 bers 360112 and 23005 shall be treated as located  
16 in the same urban area as Ann Arbor, Michigan.

17 (12) For purposes of making payment under  
18 section 1886(d) of the Social Security Act (42  
19 U.S.C. 1395ww(d)), any hospital that is located in  
20 Columbia County, New York, with less 250 beds is  
21 deemed to be located in the New York-White Plains-  
22 Wayne, NY-NJ core based statistical area.

In sections 608(b)(2) and 609(b)(3), strike “July  
21, 2007” and insert “October 1, 2007”.

In section 612(b), amend paragraph (2) to read as follows:

1           (2) PERMITTING APPROPRIATE DELIVERY AND  
2           TRANSPORT OF DRUGS.—Subsection (b)(4)(E) of  
3           such section is amended—  
4                   (A) by striking “or” at the end of clause  
5                   (i);  
6                   (B) by striking the period at the end of  
7                   clause (ii) and inserting a semicolon; and  
8                   (C) by adding at the end the following new  
9                   clauses:  
10                           “(iii) prevent a contractor from deliv-  
11                           ering drugs to a satellite office designated  
12                           by the prescribing physician; or  
13                           “(iv) prevent a contractor from allow-  
14                           ing a selecting physician to transport  
15                           drugs or biologicals to the site of adminis-  
16                           tration consistent with State law and other  
17                           applicable laws and regulations.”.

In section 612(b)(4), insert before the period at the end the following: “, except in the case of a contractor terminated as a result of the application of section 1847B(b)(2)(B) of such Act”.

Amend the paragraph (6) added by section  
612(c)(2) to read as follows:

1           “(6) SPECIAL RULE.—Beginning with January  
2           1, 2008, the payment amount for—

3                   “(A) each single source drug or biological  
4                   described in section 1842(o)(1)(G) (including a  
5                   single source drug or biological that is treated  
6                   as a multiple source drug because of the appli-  
7                   cation of subsection (c)(6)(C)(ii)) is the lower  
8                   of—

9                           “(i) the payment amount that would  
10                           be determined for such drug or biological  
11                           applying such subsection; or

12                           “(ii) the payment amount that would  
13                           have been determined for such drug or bio-  
14                           logical if such subsection were not applied;  
15                           and

16                   “(B) a multiple source drug (excluding a  
17                   drug or biological that is treated as a multiple  
18                   source drug because of the application of such  
19                   subsection) is the lower of—

20                           “(i) the payment amount that would  
21                           be determined for such drug or biological  
22                           taking into account the application of such  
23                           subsection; or

1                   “(ii) the payment amount that would  
2                   have been determined for such drug or bio-  
3                   logical if such subsection were not ap-  
4                   plied.”.

        In the clause (v) added by section 705(a)(1), strike  
“division of the core based” each place it appears before  
subclause (I) and insert after subclause (IV) the fol-  
lowing:

5                   “(V) The hospital maintains no  
6                   more than 400 beds.

        In section 705(a)(1), strike “the following new  
clause:” and insert “the following new clauses:” and add  
after clause (v) (as added by such section, and after “ex-  
ceed 10.” ) the following new clause:

7                   “(vi) INCREASE IN RESIDENCY  
8                   SLOTS.—In the case of a hospital located  
9                   in Peoria County, Illinois, that has more  
10                  than 500 beds, the Secretary shall increase  
11                  by two the otherwise applicable resident  
12                  limit under subparagraph (F) for such hos-  
13                  pital.”.

        At the end of title VII add the following:

1 **SEC. 706. STUDIES RELATING TO HOME HEALTH.**

2 (a) IN GENERAL.—The Medicare Payment Advisory  
3 Commission shall conduct a study of Medicare bene-  
4 ficiaries utilizing home health care services to determine—

5 (1) the impact that remote monitoring equip-  
6 ment and related services have on improving health  
7 care outcomes in the home health care setting for  
8 beneficiaries with chronic conditions;

9 (2) the differences in the percentage of inpa-  
10 tient hospital admissions and emergency room visits  
11 for beneficiaries with a similar health care risk pro-  
12 file who utilize remote monitoring equipment and  
13 services compared to those who do not use such  
14 equipment and services;

15 (3) the percentage of Medicare beneficiaries  
16 currently utilizing remote monitoring equipment and  
17 related services;

18 (4) the estimated reduction in aggregate ex-  
19 penditures under parts A and B of title XVIII of the  
20 Social Security Act expenditures if home health  
21 agencies increased their utilization of remote moni-  
22 toring equipment and related services for patients  
23 with chronic disease conditions; and

24 (5) the variation of utilization of remote moni-  
25 toring equipment and related services within geo-  
26 graphic regions and by size of home health agency.

1 (b) DATA COLLECTION.—As a condition of a home  
2 health agency's participation in the program under title  
3 XVIII of the Social Security Act, beginning no later than  
4 January 1, 2008, the Secretary of Health and Human  
5 Services shall require such agencies to collect, in a form  
6 and manner determined by the Secretary, the following  
7 data:

8 (1) The extent of home health agency's usage  
9 of remote monitoring equipment and related services  
10 for beneficiaries with chronic conditions.

11 (2) Whether such equipment and services are  
12 used to monitor patients' with chronic conditions  
13 vital signs on a daily basis.

14 (3) Whether standing physician orders accom-  
15 pany the use of remote monitoring equipment and  
16 services.

17 (4) The costs of remote monitoring equipment  
18 and related services.

19 (c) REPORT TO CONGRESS.—Not later than June 1,  
20 2010, the Commission shall report to Congress on its find-  
21 ings on the study conducted under subsection (a). Such  
22 report shall include recommendations regarding how Con-  
23 gress may enact reimbursement policies that increase the  
24 appropriate utilization of remote monitoring equipment  
25 and services under the home health program for Medicare

1 beneficiaries with chronic conditions in a manner that fa-  
2 cilitates health care outcomes and leads to the long-term  
3 reduction of aggregate expenditures under the Medicare  
4 program.

5 **SEC. 707. RURAL HOME HEALTH QUALITY DEMONSTRA-**  
6 **TION PROJECTS.**

7 (a) IN GENERAL.—Not later than 180 days after the  
8 date of the enactment of this Act, the Secretary of Health  
9 and Human Services (in this section referred to as the  
10 “Secretary”) shall make grants to eligible entities for dem-  
11 onstration projects to assist home health agencies to better  
12 serve their Medicare populations while aiming to reduce  
13 costs to the Medicare program through utilization of tech-  
14 nologies, including telemonitoring and other telehealth  
15 technologies, health information technologies, and tele-  
16 communications technologies that—

17 (1) implement procedures and standards that  
18 reduce the need for inpatient hospital services and  
19 health center visits; and

20 (2) address the aims of safety, effectiveness,  
21 patient- or community-centeredness, timeliness, effi-  
22 ciency, and equity identified by the Institute of Med-  
23 icine of the National Academies in its report entitled  
24 “Crossing the Quality Chasm: A New Health System

1       for the 21st Century” released on March 1, 2001,  
2       when determining when and what care is needed.

3       (b) ELIGIBLE ENTITIES.—In this section, the term  
4       “eligible entity” means a State that includes—

- 5               (1) a rural academic medical center;
- 6               (2) no urban regional medical center; and
- 7               (3) a Medicare population whose enrollees in  
8       the Medicare Part C program is less than 3 percent.

9       (c) CONSULTATION.—In developing the program for  
10       awarding grants under this section, the Secretary shall  
11       consult with the Administrator of the Centers for Medi-  
12       care & Medicaid Services, home health agencies, rural  
13       health care researchers, and private and non-profit groups  
14       (including national associations) which are undertaking  
15       similar efforts.

16       (d) DURATION.—Each demonstration project under  
17       this section shall be for a period of 2 years.

18       (e) REPORT.—Not later than one year after the con-  
19       clusion of all of the demonstration projects funded under  
20       this section, the Secretary shall submit a report to the  
21       Congress on the results of such projects. The report shall  
22       include—

- 23               (1) an evaluation of technologies utilized and  
24       effects on patient access to home health care, patient



1 outcomes, and an analysis of the cost effectiveness  
2 of each such project; and

3 (2) recommendations on Federal legislation,  
4 regulations, or administrative policies to enhance  
5 rural home health quality and outcomes.

6 (f) FUNDING.— Out of any funds in the Treasury  
7 not otherwise appropriated, there are appropriated to the  
8 Secretary for fiscal year 2008, \$3,000,000 to carry out  
9 this section. Funds appropriated under this subsection  
10 shall remain available until expended.

In section 801(a), strike “TWO-YEAR” and insert  
“FOUR-YEAR” and in the matter inserted by section  
801(a)(1) strike “September 30, 2009” and insert “Sep-  
tember 30, 2011”.

In the subclause (VI) added by section 812(a)(3),  
strike “20.1 percent” and insert “22.1 percent”.

In section 812, strike “(a) BRAND.—” and strike  
subsection (b).

At the end of subtitle B of title VIII, add the fol-  
lowing:

1   **SEC. 817. EXTENSION OF SSI WEB-BASED ASSET DEM-**  
2                   **ONSTRATION PROJECT TO THE MEDICAID**  
3                   **PROGRAM.**

4       (a) **IN GENERAL.**—The Secretary of Health and  
5 Human Services shall provide for the application to asset  
6 eligibility determinations under the Medicaid program  
7 under title XIX of the Social Security Act of the auto-  
8 mated, secure, web-based asset verification request and re-  
9 sponse process being applied for determining eligibility for  
10 benefits under the Supplemental Security Income (SSI)  
11 program under title XVI of such Act under a demonstra-  
12 tion project conducted under the authority of section  
13 1631(e)(1)(B)(ii) of such Act (42 U.S.C.  
14 1383(e)(1)(B)(ii)).

15       (b) **LIMITATION.**—Such application shall only extend  
16 to those States in which such demonstration project is op-  
17 erating and only for the period in which such project is  
18 otherwise provided.

19       (c) **RULES OF APPLICATION.**—For purposes of car-  
20 rying out subsection (a), notwithstanding any other provi-  
21 sion of law, information obtained from a financial institu-  
22 tion that is used for purposes of eligibility determinations  
23 under such demonstration project with respect to the Sec-  
24 retary of Health and Human Services under the SSI pro-  
25 gram may also be shared and used by States for purposes  
26 of eligibility determinations under the Medicaid program.

1 In applying section 1631(e)(1)(B)(ii) of the Social Secu-  
2 rity Act under this subsection, references to the Commis-  
3 sioner of Social Security and benefits under title XVI of  
4 such Act shall be treated as including a reference to a  
5 State described in subsection (b) and medical assistance  
6 under title XIX of such Act provided by such a State.

In the section 1822 added by section 904(a), in sub-  
section (b)(3)(A)(iii) strike “up to 15” and insert “15”;  
in subsection (b)(6)(B) strike “10” and “9” and insert  
“8” and “7”, respectively; and in subsection (g)(2)(B)(ii)  
strike “8” and “7” and insert “10” and “9”, respec-  
tively.

Amend paragraph (2) of the section 4375(c) added  
by section 904(b)(2)(A) to read as follows:

7 “(2) EXEMPTION FOR CERTAIN POLICIES.—The  
8 term ‘specified health insurance policy’ does not in-  
9 clude any insurance if substantially all of its cov-  
10 erage is of excepted benefits described in section  
11 9832(c).

At the end of title IX add the following:

12 **SEC. 909. ACCESS TO DATA ON PRESCRIPTION DRUG PLANS**  
13 **AND MEDICARE ADVANTAGE PLANS.**

14 (a) IN GENERAL.—Section 1875 of the Social Secu-  
15 rity Act (42 U.S.C. 1395ll) is amended—

1           (1) in the heading, by inserting “TO CONGRESS;  
2       PROVIDING INFORMATION TO CONGRESSIONAL SUP-  
3       PORT AGENCIES” after “AND RECOMMENDATIONS”;  
4       and

5           (2) by adding at the end the following new sub-  
6       section:

7       “(c) PROVIDING INFORMATION TO CONGRESSIONAL  
8       SUPPORT AGENCIES.—

9           “(1) IN GENERAL.—Notwithstanding any provi-  
10      sion under part D that limits the use of prescription  
11      drug data collected under such part, upon the re-  
12      quest of a Congressional support agency, the Sec-  
13      retary shall provide such agency with information  
14      submitted to, or compiled by, the Secretary under  
15      part D (subject to the restriction on disclosure under  
16      paragraph (2)), including—

17           “(A) only with respect to Congressional  
18      support agencies that make official baseline  
19      spending projections, conduct oversight studies  
20      mandated by Congress, or make official rec-  
21      ommendations on the program under this title  
22      to Congress—

23           “(i) aggregate negotiated prices for  
24      drugs covered under prescription drug  
25      plans and MA-PD plans;

1                   “(ii) negotiated rebates, discounts,  
2                   and other price concessions by drug and by  
3                   contract or plan (as reported under section  
4                   1860D-2(d)(2));

5                   “(iii) bid information (described in  
6                   section 1860D-11(b)(2)(C)) submitted by  
7                   such plans;

8                   “(iv) data or a representative sample  
9                   of data regarding drug claims and other  
10                  data submitted under section 1860D-  
11                  15(c)(1)(C) (as determined necessary and  
12                  appropriate by the Congressional support  
13                  agency to carry out the legislatively man-  
14                  dated duties of the agency);

15                  “(v) the amount of reinsurance pay-  
16                  ments paid under section 1860D-15(a)(2),  
17                  provided at the plan level; and

18                  “(vi) the amount of any adjustments  
19                  of payments made under subparagraph (B)  
20                  or (C) of section 1860D-15(e)(2), provided  
21                  at the plan level aggregate negotiated  
22                  prices for drugs covered under prescription  
23                  drug plans and MA-PD plans; and

24                  “(B) access to drug event data submitted  
25                  by such plans under section 1860D-

1           15(d)(2)(A), except, with respect to data that  
2           reveals prices negotiated with drug manufactur-  
3           ers, such data shall only be available to Con-  
4           gressional support agencies that make official  
5           baseline spending projections, conduct oversight  
6           studies mandated by Congress, or make official  
7           recommendations on the program under this  
8           title to Congress.

9           “(2) RESTRICTION ON DATA DISCLOSURE.—

10                 “(A) IN GENERAL.—Data provided to a  
11           Congressional support agency under this sub-  
12           section shall not be disclosed, reported, or re-  
13           leased in identifiable form.

14                 “(B) IDENTIFIABLE FORM.—For purposes  
15           of subparagraph (A), the term ‘identifiable  
16           form’ means any representation of information  
17           that permits identification of a specific prescrip-  
18           tion drug plan, MA-PD plan, pharmacy benefit  
19           manager, drug manufacturer, drug wholesaler,  
20           or individual enrolled in a prescription drug  
21           plan or an MA-PD plan under part D.

22                 “(3) TIMING.—The Secretary shall release data  
23           under this subsection in a timeframe that enables  
24           Congressional support agencies to complete congres-  
25           sional requests.

1           “(4) USE OF THE DATA PROVIDED.—Data pro-  
2           vided to a Congressional support agency under this  
3           subsection shall only be used by such agency for car-  
4           rying out the functions and activities of the agency  
5           mandated by Congress.

6           “(5) CONFIDENTIALITY.—The Secretary shall  
7           establish safeguards to protect the confidentiality of  
8           data released under this subsection. Such safeguards  
9           shall not provide for greater disclosure than is per-  
10          mitted under any of the following:

11                 “(A) The Federal regulations (concerning  
12                 the privacy of individually identifiable health in-  
13                 formation) promulgated under section 264(c) of  
14                 the Health Insurance Portability and Account-  
15                 ability Act of 1996.

16                 “(B) Sections 552 or 552a of title 5,  
17                 United States Code, with regard to the privacy  
18                 of individually identifiable beneficiary health in-  
19                 formation.

20           “(6) DEFINITIONS.—In this subsection:

21                 “(A) CONGRESSIONAL SUPPORT AGEN-  
22                 CY.—The term ‘Congressional support agency’  
23                 means—

24                         “(i) the Medicare Payment Advisory  
25                         Commission;

1                   “(ii) the Government Accountability  
2                   Office; and

3                   “(iii) the Congressional Budget Office.

4                   “(B) MA-PD PLAN.—The term ‘MA-PD  
5                   plan’ has the meaning given such term in sec-  
6                   tion 1860D-1(a)(3)(C).

7                   “(C) PRESCRIPTION DRUG PLAN.—The  
8                   term ‘prescription drug plan’ has the meaning  
9                   given such term in section 1860D-41(a)(14).”.

10           (b) CONFORMING AMENDMENT.—Section 1805(b)(2)  
11 of the Social Security Act (42 U.S.C. 1395b-6(b)(2)) is  
12 amended by adding at the end the following new subpara-  
13 graph:

14                   “(D) PART D.—Specifically, the Commis-  
15                   sion shall review payment policies with respect  
16                   to the Voluntary Prescription Drug Benefit  
17                   Program under part D, including—

18                   “(i) the factors affecting expenditures;

19                   “(ii) payment methodologies; and

20                   “(iii) their relationship to access and  
21                   quality of care for Medicare beneficiaries.”.

22 **SEC. 910. ABSTINENCE EDUCATION.**

23           Section 510 of the Social Security Act (42 U.S.C.  
24 710) is amended to read as follows:



1   **“SEC. 510. SEPARATE PROGRAM FOR ABSTINENCE EDU-**  
2                   **CATION.**

3           “(a) IN GENERAL.—For the purpose described in  
4 subsection (b), the Secretary shall, for fiscal year 2008  
5 and fiscal year 2009, allot to each State which has trans-  
6 mitted an application for the fiscal year under section  
7 505(a) an amount equal to the product of—

8                   “(1) the amount appropriated in subsection (d)  
9 for the fiscal year; and

10                   “(2) the percentage determined for the State  
11 under section 502(c)(1)(B)(ii).

12           “(b) PURPOSE OF ALLOTMENT.—

13                   “(1) PURPOSE.—The purpose of an allotment  
14 under subsection (a) to a State is to enable the  
15 State to provide abstinence education, and where ap-  
16 propriate, mentoring, counseling, and adult super-  
17 vision to promote abstinence from sexual activity,  
18 with a focus on those groups which are most likely  
19 to bear children out-of-wedlock.

20                   “(2) DEFINITION; STATE OPTION.—For pur-  
21 poses of this section, the term ‘abstinence education’  
22 has, at the option of each State receiving an allot-  
23 ment under subsection (a), the meaning given such  
24 term in subparagraph (A), or the meaning given  
25 such term in subparagraph (B), as follows:

1           “(A) Such term means a medically and sci-  
2           entifically accurate educational or motivational  
3           program which—

4                   “(i) has as its exclusive purpose,  
5                   teaching the social, psychological, and  
6                   health gains to be realized by abstaining  
7                   from sexual activity;

8                   “(ii) teaches abstinence from sexual  
9                   activity outside marriage as the expected  
10                  standard for all school age children;

11                  “(iii) teaches that abstinence from  
12                  sexual activity is the only certain way to  
13                  avoid out-of-wedlock pregnancy, sexually  
14                  transmitted diseases, and other associated  
15                  health problems;

16                  “(iv) teaches that a mutually faithful  
17                  monogamous relationship in context of  
18                  marriage is the expected standard of  
19                  human sexual activity;

20                  “(v) teaches that sexual activity out-  
21                  side of the context of marriage is likely to  
22                  have harmful psychological and physical ef-  
23                  fects;

24                  “(vi) teaches that bearing children  
25                  out-of-wedlock is likely to have harmful

1 consequences for the child, the child's par-  
2 ents, and society;

3 “(vii) teaches young people how to re-  
4 ject sexual advances and how alcohol and  
5 drug use increases vulnerability to sexual  
6 advances; and

7 “(viii) teaches the importance of at-  
8 taining self-sufficiency before engaging in  
9 sexual activity.

10 “(B) Such term means a medically and sci-  
11 entifically accurate educational or motivational  
12 program which promotes abstinence and edu-  
13 cates those who are currently sexually active or  
14 at risk of sexual activity about additional meth-  
15 ods to prevent unintended pregnancy or reduce  
16 other health risks.

17 “(3) CERTAIN REQUIREMENTS.—

18 “(A) LIMITATION REGARDING INACCURATE  
19 INFORMATION.—None of the funds made avail-  
20 able under this section may be used to provide  
21 abstinence education that includes information  
22 that is medically and scientifically inaccurate.  
23 For purposes of this section, the term ‘medi-  
24 cally and scientifically inaccurate’ means infor-  
25 mation that is unsupported or contradicted by

1 a preponderance of peer-reviewed research by  
2 leading medical, psychological, psychiatric, and  
3 public health publications, organizations and  
4 agencies.

5 “(B) EFFECTIVENESS REGARDING CER-  
6 TAIN MATTERS.—None of the funds made avail-  
7 able under this section may be used for a pro-  
8 gram unless the program is based on a model  
9 that has been demonstrated to be effective in  
10 preventing unintended pregnancy, or in reduc-  
11 ing the transmission of a sexually transmitted  
12 disease, including the human immunodeficiency  
13 virus. The preceding sentence does not apply to  
14 any program that was approved and funded  
15 under this section on or before September 30,  
16 2007.

17 “(c) APPLICABILITY OF CERTAIN SECTIONS.—

18 “(1) REQUIREMENTS.—Sections 503, 507, and  
19 508 apply to allotments under subsection (a) to the  
20 same extent and in the same manner as such sec-  
21 tions apply to allotments under section 502(c).

22 “(2) DISCRETION OF SECRETARY.—Sections  
23 505 and 506 apply to allotments under subsection  
24 (a) to the extent determined by the Secretary to be  
25 appropriate.

1       “(d) AUTHORIZATION OF APPROPRIATIONS.—For the  
2 purpose of allotments under subsection (a), there is au-  
3 thorized to be appropriated \$50,000,000 for each of fiscal  
4 years 2008 and 2009.”.

      In the matter proposed to be inserted by section  
1001(d)(1), strike “44.63 percent” and insert “40 per-  
cent (33 percent on cigars removed after December 31,  
2007, and before October 1, 2013)”.

Conform the table of contents accordingly.